

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 98-306-C - ORDER NO. 1999-492  
JULY 9, 1999

IN RE: Application of Eagle Telecom, Inc. for a	)	ORDER DISMISSING ✓ MR
Certificate of Public Convenience and	)	APPLICATION AND
Necessity to Operate as a Reseller of	)	CLOSING DOCKET
Interexchange Telecommunications Services	)	
within the State of South Carolina.	)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Application of Eagle Telecom, Inc. (Eagle Telecom or the Company) for a Certificate of Public Convenience and Necessity to operate as a reseller of interexchange telecommunications services within the State of South Carolina. For the reasons stated below, the Application is dismissed, without prejudice.

Pursuant to the instructions of the Executive Director, the Company published a Notice of Filing, one time, in newspapers of general circulation in South Carolina. The Notice of Filing informed the public as to how it might participate in the proceeding. A Petition to Intervene was received from Eagle Communications, Inc. (the Intervenor). The Company filed proof of publication of the Notice of Filing.

The record reflects that two requests to reschedule the hearing in this matter were received from the Company, one dated December 8, 1998, and one dated February 3, 1999. We granted a continuance on those two occasions. Accordingly, we rescheduled the hearing for July 7, 1999 at 11:00 AM in the offices of the Commission. At the appointed hour, no representative from the Company was present. The record reflects that

no request for rescheduling the hearing had been received. Present for the Intervenor was John Pringle, Esq. The Commission Staff was represented by F. David Butler, General Counsel. The Honorable Philip T. Bradley, Chairman, presided.

The General Counsel moved for dismissal of the Application, without prejudice, on the grounds of absence of a representative of the Company at the hearing. General Counsel Butler noted the two prior requests for rescheduling, and the fact that he and other Staff members had tried to determine whether the Company was sending a representative to the present hearing by calling counsel for the Company. The Staff was never able to obtain a specific answer to this question. Counsel for the Intervenor supported the Motion. Counsel for the Intervenor noted, among other things, that the Company had failed to serve the Intervenor with copies of the prefiled testimony in the case. Counsel for the Intervenor also noted his objection to the Company's business name, based on its similarity to the Intervenor's business name.

We grant the Motion to Dismiss, without prejudice, and hold that this Docket shall be closed. Obviously, the Company was on notice of the present hearing, but failed to appear. Also, the Company had had two prior opportunities to appear at a hearing on its Application, but failed to avail itself of those opportunities.

We also express our disapproval of the Company's failure to serve the Intervenor with its prefiled testimony in this case. The Company has violated Commission Regulation 103-869 by its failure to serve.

Since this dismissal is without prejudice, the Company has the right to refile its Application at a later time to begin a new proceeding.

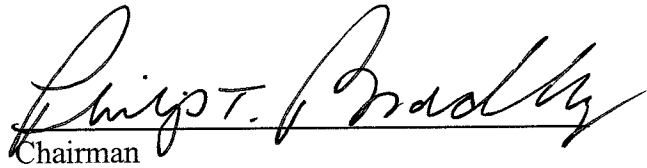
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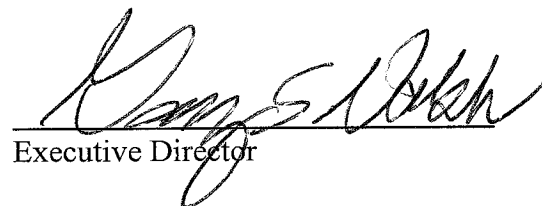
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This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)